



# CHECKLIST FOR ABSOLUTE DIVORCE

To obtain an Absolute Divorce you must complete all of the following steps and procedures in order. **FAILURE TO FOLLOW THE STEPS IN ORDER WILL DELAY YOUR DIVORCE PROCEEDINGS!**

## STEP 1: FILING YOUR COMPLAINT WITH THE CLERK OF SUPERIOR COURT

You must first complete the following forms and file them with the Clerk of Superior Court, first floor, Room 107 of the Cumberland County Courthouse. Failure to bring the correct number of copies may result in additional fees.

### Complaint for Absolute Divorce

- Original complaint and two (2) copies must be filled out completely and accurately
- Forms must be properly notarized
- Filing fee (\$225.00) in cash, money order or certified check payable to the Clerk of Superior Court (*No personal checks accepted.*) Resumption of maiden name is an additional \$10.00 fee.

***(Court costs are subject to legislative increase without notice.)***

### Civil Summons

- Original summons (white) and two (2) copies (yellow)
- Summons filled out completely and accurately

### Domestic Civil Action Coversheet

- Original Domestic Civil Action Coversheet **and** two (2) copies
- Coversheet filled out completely and accurately
- Affidavit- Servicemembers Civil Relief Act (which must be notarized)
- Servicemembers Waiver of Relief under S.C.R.A 50 U.S.C App§§ 501-597(b)

Certificate of Absolute Divorce ( issued by the Clerk upon the receipt of a completed packet)

- Certificate filled out completely and accurately (Original only)

***\*NOTE: You should always have three copies of each document you are filing; the original for the Court, one copy for your records, and one copy for the opposing party.***

## **STEP 2: SERVICE OF PROCESS (CHOOSE ONE OF THE FOLLOWING)**

After filing your complaint at the Clerk's office, you must now serve the defendant with one (1) copy of the divorce complaint, one (1) Domestic Civil Action Coversheet, the form entitled IMPORTANT NOTICE and the summons. You may serve the defendant in one of the following ways:

### **Service by Sheriff**

- Pay \$30.00 service fee to the Civil Office of the Sheriff in the county where the defendant resides (***Service fees are subject to increase at the discretion of the legislature without notice. No personal checks accepted.***)

-OR-

### **Service by Certified Mail-Restricted Delivery**

- Mail to the Defendant by certified mail- restricted delivery, return receipt requested, and one (1) copy each of the complaint, coversheet, IMPORTANT NOTICE and summons.
- Obtain the "green card" receipt, returned from the post office with the defendant's signature and attach to Affidavit of Service form.
- Complete the front section only of the Affidavit of Service form (provided in your ABSOLUTE DIVORCE PACKET). Make sure you sign this form before a Notary Public.
- File the completed Affidavit of Service form and attached "green card" receipt with the Clerk's Office

-OR-

### **Service by Personal Delivery**

- Complete the top portion on the front of the Affidavit of Service (provided in your ABSOLUTE DIVORCE PACKET).
- The Defendant must complete the section **Personal Delivery** on the back of the Affidavit of Service form. The Defendant must sign this form before a Notary Public.
- File the completed Affidavit of Service form with the Clerk's Office

### STEP 3: CALENDARING YOUR CASE FOR TRIAL

#### Obtaining a Court Date

- Thirty days after** the Defendant has been served with the Summons and complaint you should visit the District Court Judge's Office located on the second floor, of the Cumberland County Courthouse, Suite 211 to speak to a Family Court staff member. You will need to show proof of service. They will give you the next available court date to schedule your Absolute Divorce.
- Complete three (3) copies of the Calendar Request/Notice of Hearing form (1 copy is provided in your ABSOLUTE DIVORCE PACKET)
- The original should be left with a Family Court Case Manager. One copy is for your records and you must send the third copy to the Defendant by regular mail. You must give the Defendant at least ten (10) days notice of the hearing.

### STEP 4: FINALIZING YOUR DIVORCE

#### Your Day in Court

- BE PREPARED!
- When the judge calls your case, you will need to ask the clerk to swear you in. You must then present evidence and testimony in your case, from the witness stand, in accordance with North Carolina General Statute
- You must be prepared to account for the deployment status of your spouse if he or she is a service member.
- You will need to have the original **and** two (2) copies of your Judgment for Absolute Divorce (provided in your ABSOLUTE DIVORCE PACKET) with the top portion completed, and ready for the Judge to sign.
- Waiver is not required however if your spouse is a servicemember who is currently an active duty member of the U.S. Armed Forces or a member of a Reserve or National Guard Unit that has been called to active duty for over thirty (30) days pursuant to 32 U.S.C §502(f) and 50 U.S.C. App § 516, He or she may choose to waive their rights to : stay the action 90 days or more or other rights under the Servicemembers Civil Relief Act. They may so waive their rights under "the Act" by completing the Servicemembers Waiver of Relief under S.C.R.A 50 U.S.C. App §§ 501-597(b). **THIS WAIVER MUST BE NOTARIZED. THIS IS NOT A WAIVER OF TIME TO FILE AN ANSWER OR A WAIVER OF SERVICE.**

### **Filing Your Judgment**

- ❑ Once the divorce is granted, the Judge will sign the original Judgment for you. You must then take the Judgment to the Civil Division of the Clerk's Office located on the first floor of the Cumberland County Courthouse, Room 107 to file. A Clerk will file the original and conform the Judge's signature on the two (2) copies. One is for your records and you must send the other copy to the Defendant by regular mail.
- ❑ **YOU MUST FILE THE ORIGINAL JUDGMENT WITH THE CLERK'S OFFICE. YOUR DIVORCE IS NOT COMPLETE UNTIL IT IS FILED AND A COPY MAILED OR PROVIDED TO THE DEFENDANT.**